IN THE HIGH COURT OF PUNJAB AND HARYANA
ATCHANDIGARH

C.W.P.No.14609 of 2007
Date of Decision : 18.9.2007

M/s Apoorva Agencies

---Petitioner

Vs.

State of Punjab and another

---Respondents

Coram: **Hon'ble Mr. Justice M.M.Kumar**
Hon'ble Mr. Justice Ajay Kumar Mittal

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Present: Mr.Gurinder Pal Singh Advocate
for the petitioner.

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M.M.Kumar, J.

The prayer in this petition under Article 226 of the Constitution is that circular dated 16.10.2002 (P-4) be quashed to the extent it direct collection of sale tax from gunny bags of wheat meant for export. Further prayer for issuance of direction to the respondents to refund the illegally deducted amount of Rs. 8,01,918/- along with interest at the rate of 18% per annum from the date of illegal deduction till the date of payment has also been made. It has not been disputed before us that the sale tax has been imposed on the gunny bags purchased by FCI-respondent No. 2. There is no tax paid by the petitioner in the State of Punjab. There is no privity of contract between the petitioner and FCI although the agreement exists between FCI and respondent No. 4 i.e. MMTC Limited. The petitioner had earlier approached Delhi High Court. It was noticed by the learned Single Judge that no transaction had taken place in Delhi and arbitration

clause existed between the petitioner and MMTC Limited-respondent No. 4. The petitioner is also stated to have addressed a letter to respondent No. 4 in order to settle the dues. They were to go to the arbitration. The amounts have been deducted by MMTC Limited -respondent No. 4 from the dues payable by them to the petitioner. The writ petition was dismissed by opining that those were not the questions which can be properly entertained in a writ petition. The L.P.A.Bench dismissed the appeal by stating that Single Judge had held that there was not jurisdiction with the Delhi High Court as the transaction had taken place out side the jurisdiction of that Court.

After hearing the learned counsel we are of the considered view that no cause of action has arisen to the petitioner to challenge the transaction which has taken place between FCI-respondent No. 2 and MMTC Limited-respondent No. 4. It is the FCI which has been subjected to the payment of sales tax on gunny bags by the State of Punjab and the burden has been transferred to respondent No. 4-MMTC Limited. None of those entities has come before this Court and the petitioner cannot claim that once the sales tax has been imposed on those entities he becomes entitled to invoke the jurisdiction of this Court.

There is no merit in the petition and the same is dismissed.

(M.M.KUMAR)
JUDGE

(AJAY KUMAR MITTAL)
JUDGE

September 18, 2007
paramjit